

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 441

Introduced by Senator Leno

February 25, 2015

An act to ~~amend Section 33333.7 of~~ *add Section 34177.7 to* the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 441, as amended, Leno. San Francisco redevelopment: housing.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law dissolved redevelopment agencies as of February 1, 2012, and provides for the designation of successor agencies that are required to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make payments due for enforceable obligations. ~~Existing law authorized the former Redevelopment Agency of the City and County of San Francisco, subject to the approval of the board of supervisors of that city and county, to incur indebtedness exclusively for specified Low and Moderate Income Housing Fund activities until January 1, 2014, or until the agency replaced all of the housing units demolished prior to the enactment of the replacement housing obligations, and to receive tax increment revenues to repay indebtedness incurred for those activities until no later than January 1, 2044, as specified. Existing law prohibits dissolved redevelopment agencies from issuing bonds or incurring other indebtedness on or after June 29, 2011. Existing law authorizes successor agencies to, among other things, issue bonds or incur indebtedness after that date to refund the bonds or indebtedness of a former redevelopment agency or to finance debt service spikes, as~~

specified. The issuance of bonds or incurrence of other indebtedness by a successor agency is subject to the approval of the oversight board of the successor agency.

~~This bill would make a technical, nonsubstantive change to the provision authorizing the former Redevelopment Agency of the City and County of San Francisco to incur indebtedness exclusively for specified Low and Moderate Income Housing Fund activities.~~

This bill would authorize the successor agency to the Redevelopment Agency of the City and County of San Francisco to issue bonds or incur other indebtedness to finance the construction of affordable housing and infrastructure required by specified enforceable obligations, subject to the approval of the oversight board. The bill would provide that bonds or other indebtedness authorized by its provisions would be considered indebtedness incurred by the dissolved redevelopment agency, would be listed on the Recognized Obligation Payment Schedule, and would be secured by a pledge of moneys deposited into the Redevelopment Property Tax Trust Fund. The bill would authorize the successor agency to require affected taxing entities to make certain determinations as to the related subordination of revenues, and would thereby impose a state-mandated local program. The bill would also require the successor agency to make diligent efforts to obtain the lowest long-term cost financing and to make use of an independent financial advisor in developing financing proposals.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature hereby finds and declares all of*
- 2 *the following:*
- 3 (a) *The Department of Finance has provided written*
- 4 *confirmation to the successor agency to the Redevelopment Agency*

1 of the City and County of San Francisco (successor agency) that
2 the following projects are finally and conclusively approved as
3 enforceable obligations:

4 (1) The Mission Bay North Owner Participation Agreement.

5 (2) The Mission Bay South Owner Participation Agreement.

6 (3) The Disposition and Development Agreement for Hunters
7 Point Shipyard Phase 1.

8 (4) The Candlestick Point-Hunters Point Shipyard Phase 2
9 Disposition and Development Agreement.

10 (5) The Transbay Implementation Agreement.

11 (b) The enforceable obligations described in subdivision (a)
12 require the successor agency to fund and develop affordable
13 housing, including 1,200 units in Transbay, 1,445 units in Mission
14 Bay North and Mission Bay South, and 1,358 units in Candlestick
15 Point-Hunters Point Shipyard Phases 1 and 2. In addition, the
16 successor agency is required to fund and develop public
17 infrastructure in the Transbay Redevelopment Project Area
18 pursuant to the Transbay Implementation Agreement, which is
19 necessary to improve the area surrounding the Transbay Transit
20 Center.

21 (c) Due to insufficient property tax revenues in the
22 Redevelopment Property Tax Trust Fund, of the total number of
23 affordable housing units that the successor agency is obligated to
24 fund and develop under the enforceable obligations described in
25 subdivision (a), the successor agency has been able to finance the
26 construction of only 642 units. Additionally, the successor agency
27 has not been able to fulfill its public infrastructure obligation
28 under the Transbay Implementation Agreement.

29 (d) The successor agency can more expeditiously construct the
30 3,361 additional units of required affordable housing and the
31 necessary infrastructure improvements if it is able to issue bonds
32 or incur other indebtedness secured by property tax revenues
33 available in the Redevelopment Property Tax Trust Fund to finance
34 these obligations.

35 (e) It is the intent of the Legislature to authorize the successor
36 agency to issue bonds or incur other indebtedness for the purpose
37 of financing the construction of affordable housing and
38 infrastructure required under the enforceable obligations described
39 in subdivision (a). These bonds or other indebtedness may be
40 secured by property tax revenues available in the successor

1 agency's *Redevelopment Property Tax Trust Fund* from those
2 project areas that generated tax increment for the *Redevelopment*
3 *Agency of the City and County of San Francisco* upon its
4 dissolution, if the revenues are not otherwise obligated.

5 (f) Authorizing the successor agency to issue bonds or incur
6 other indebtedness to finance the enforceable obligations described
7 in subdivision (a) will financially benefit the affected taxing entities,
8 insofar as it will ensure that funds which would otherwise flow to
9 those entities as "residual" payments pursuant to paragraph (4)
10 of subdivision (a) of Section 34183 of the *Health and Safety Code*
11 will not be redirected to fund these enforceable obligations.
12 Instead, the enforceable obligations will be funded with the
13 proceeds of the bonds or debt issuances.

14 (g) The housing situation in the City and County of San
15 Francisco is unique, in that median rents and sales prices are
16 among the highest in the state. Because of this, the City and County
17 of San Francisco is currently facing an affordable housing crisis.

18 SEC. 2. Section 34177.7 is added to the *Health and Safety*
19 *Code*, to read:

20 34177.7. (a) (1) In addition to the powers granted to each
21 successor agency, and notwithstanding any other provision of this
22 division, including, but not limited to, Sections 34162 and 34189,
23 the successor agency to the *Redevelopment Agency of the City and*
24 *County of San Francisco* may issue bonds or incur other
25 indebtedness to finance all of the following:

26 (A) The affordable housing requirements of the following
27 enforceable obligations:

28 (i) *The Mission Bay North Owner Participation Agreement.*

29 (ii) *The Mission Bay South Owner Participation Agreement.*

30 (iii) *The Disposition and Development Agreement for Hunters*
31 *Point Shipyard Phase 1.*

32 (iv) *The Candlestick Point-Hunters Point Shipyard Phase 2*
33 *Disposition and Development Agreement.*

34 (v) *The Transbay Implementation Agreement.*

35 (B) The infrastructure requirements of the *Transbay*
36 *Implementation Agreement.*

37 (2) The successor agency to the *Redevelopment Agency of the*
38 *City and County of San Francisco* may pledge to the bonds or
39 other indebtedness incurred pursuant to this section any property

1 *tax revenues available in the Redevelopment Property Tax Trust*
2 *Fund that are not otherwise obligated.*

3 *(b) Bonds issued pursuant to this section may be sold at either*
4 *a negotiated or a competitive sale. The bonds issued or other*
5 *indebtedness incurred pursuant to this section may be issued or*
6 *incurred on a parity basis with outstanding bonds or other*
7 *indebtedness obligations of the successor agency to the*
8 *Redevelopment Agency of the City and County of San Francisco,*
9 *and the successor agency may pledge the revenues pledged to*
10 *those outstanding bonds or other indebtedness obligations to the*
11 *issuance of bonds or other indebtedness incurred pursuant to this*
12 *section. The pledge, when made in connection with the issuance*
13 *of bonds or other indebtedness obligations under this section, shall*
14 *have the same lien priority as the pledge of outstanding bonds or*
15 *other indebtedness, and shall be valid, binding, and enforceable*
16 *in accordance with its terms.*

17 *(c) (1) Prior to incurring any bonds or other indebtedness*
18 *pursuant to this section, the successor agency to the Redevelopment*
19 *Agency of the City and County of San Francisco may subordinate*
20 *to the bonds or other indebtedness the amount required to be paid*
21 *to an affected taxing entity pursuant to paragraph (1) of subdivision*
22 *(a) of Section 34183, provided that the affected taxing entity has*
23 *approved the subordinations pursuant to this subdivision.*

24 *(2) At the time the successor agency requests an affected taxing*
25 *entity to subordinate the amount to be paid to it, the successor*
26 *agency shall provide the affected taxing entity with substantial*
27 *evidence that sufficient funds will be available to pay both the debt*
28 *service on the bonds or other indebtedness and the payments*
29 *required by paragraph (1) of subdivision (a) of Section 34183,*
30 *when due.*

31 *(3) Within 45 days after receipt of the agency's request, the*
32 *affected taxing entity shall approve or disapprove the request for*
33 *subordination. An affected taxing entity may disapprove a request*
34 *for subordination only if it finds, based upon substantial evidence,*
35 *that the successor agency will not be able to pay the debt service*
36 *payments and the amount required to be paid to the affected taxing*
37 *entity. If the affected taxing entity does not act within 45 days after*
38 *receipt of the agency's request, the request to subordinate shall*
39 *be deemed approved and shall be final and conclusive.*

(d) An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of bonds or other obligations authorized by this section, the pledge of revenues to those bonds or other obligations authorized by this section, the legality and validity of all proceedings theretofore taken and, as provided in the resolution of the legislative body of the successor agency to the Redevelopment Agency of the City and County of San Francisco authorizing the bonds or other obligations authorized by this section, proposed to be taken for the authorization, execution, issuance, sale, and delivery of the bonds or other obligations authorized by this section, and for the payment of debt service on the bonds or the payment of amounts under other obligations authorized by this section. Subdivision (c) of Section 33501 does not apply to any such action. The Department of Finance shall be notified of the filing of any action as an affected party.

(e) Notwithstanding any other law, including, but not limited to, Section 33501, an action to challenge the issuance of bonds or the incurrence of indebtedness by the successor agency to the Redevelopment Agency of the City and County of San Francisco shall be brought within 30 days after the date on which the oversight board approves the resolution of the successor agency approving the issuance of bonds or the incurrence of indebtedness authorized under this section.

(f) The actions authorized in this section shall be subject to the approval of the oversight board, as provided in Section 34180. Additionally, an oversight board may direct the successor agency to the Redevelopment Agency of the City and County of San Francisco to commence any of the transactions described in subdivision (a) so long as the successor agency is able to recover its related costs in connection with the transaction. After a successor agency, with approval of the oversight board, issues any bonds, incurs any indebtedness, or executes an amended enforceable obligation pursuant to subdivision (a), the oversight board shall not unilaterally approve any amendments to or early termination of the bonds, indebtedness, or enforceable obligation. If, under the authority granted to it by subdivision (h) of Section 34179, the Department of Finance either reviews and approves or fails to request review within five business days of an oversight

1 *board approval of an action authorized by this section, the*
2 *scheduled payments on the bonds or other indebtedness shall be*
3 *listed in the Recognized Obligation Payment Schedule and shall*
4 *not be subject to further review and approval by the department*
5 *or the Controller. The department may extend its review time to*
6 *60 days for actions authorized in this section and may seek the*
7 *assistance of the Treasurer in evaluating proposed actions under*
8 *this section.*

9 *(g) Any bonds, indebtedness, or amended enforceable obligation*
10 *authorized by this section shall be considered indebtedness*
11 *incurred by the dissolved redevelopment agency, with the same*
12 *legal effect as if the bonds, indebtedness, financing agreement, or*
13 *amended enforceable obligation had been issued, incurred, or*
14 *entered into prior to June 29, 2011, in full conformity with the*
15 *applicable provisions of the Community Redevelopment Law that*
16 *existed prior to that date, shall be included in the successor agency*
17 *to the Redevelopment Agency of the City and County of San*
18 *Francisco's Recognized Obligation Payment Schedule, and shall*
19 *be secured by a pledge of, and lien on, and shall be repaid from*
20 *moneys deposited from time to time in the Redevelopment Property*
21 *Tax Trust Fund established pursuant to subdivision (c) of Section*
22 *34172, as provided in paragraph (2) of subdivision (a) of Section*
23 *34183. Property tax revenues pledged to any bonds, indebtedness,*
24 *or amended enforceable obligations authorized by this section are*
25 *taxes allocated to the successor agency pursuant to subdivision*
26 *(b) of Section 33670 and Section 16 of Article XVI of the California*
27 *Constitution.*

28 *(h) The successor agency to the Redevelopment Agency of the*
29 *City and County of San Francisco shall make diligent efforts to*
30 *ensure that the lowest long-term cost financing is obtained. The*
31 *financing shall not provide for any bullets or spikes and shall not*
32 *use variable rates. The successor agency shall make use of an*
33 *independent financial advisor in developing financing proposals*
34 *and shall make the work products of the financial advisor available*
35 *to the Department of Finance at its request.*

36 *SEC. 3. The Legislature finds and declares that a special law*
37 *is necessary and that a general law cannot be made applicable*
38 *within the meaning of Section 16 of Article IV of the California*
39 *Constitution because of the unique circumstances relating to*
40 *affordable housing in the City and County of San Francisco in*

1 *conjunction with the affordable housing and infrastructure*
2 *requirements of the enforceable obligations specified in this act.*

3 *SEC. 4. No reimbursement is required by this act pursuant to*
4 *Section 6 of Article XIII B of the California Constitution because*
5 *the only costs that may be incurred by a local agency or school*
6 *district are the result of a program for which legislative authority*
7 *was requested by that local agency or school district, within the*
8 *meaning of Section 17556 of the Government Code and Section 6*
9 *of Article XIII B of the California Constitution.*

10 ~~SECTION 1. Section 33333.7 of the Health and Safety Code~~
11 ~~is amended to read:~~

12 ~~33333.7. (a) Notwithstanding the time limits set forth in~~
13 ~~paragraph (1) of subdivision (a) of Section 33333.6, as that~~
14 ~~paragraph (1) read on December 31, 2001, the Redevelopment~~
15 ~~Agency of the City and County of San Francisco may, subject to~~
16 ~~the approval of the Board of Supervisors of the City and County~~
17 ~~of San Francisco, retain its ability to incur indebtedness exclusively~~
18 ~~for Low and Moderate Income Housing Fund activities eligible~~
19 ~~under Sections 33334.2 and 33334.3 until January 1, 2014, or until~~
20 ~~the agency replaces all of the housing units demolished prior to~~
21 ~~the enactment of the replacement housing obligations in Chapter~~
22 ~~970 of the Statutes of 1975, whichever occurs earlier. The ability~~
23 ~~of the agency to receive tax increment revenues to repay~~
24 ~~indebtedness incurred for these Low and Moderate Income Housing~~
25 ~~Fund activities may be extended until no later than January 1,~~
26 ~~2044. Nothing in this paragraph shall be construed to extend a~~
27 ~~plan's effectiveness, except to incur additional indebtedness for~~
28 ~~Low and Moderate Income Housing Fund activities, to pay~~
29 ~~previously incurred indebtedness, and to enforce existing~~
30 ~~covenants, contracts, or other obligations.~~

31 ~~(b) Annual revenues shall not exceed the amount necessary to~~
32 ~~fund the Low and Moderate Income Housing Fund activities of~~
33 ~~the agency. The agency shall neither collect nor spend more than~~
34 ~~10 percent for the planning and administrative costs authorized~~
35 ~~pursuant to subdivision (c) of Section 33334.3. Revenues received~~
36 ~~under this paragraph shall not exceed the amount of tax increment~~
37 ~~received and allocated to the agency pursuant to the plan, as it has~~
38 ~~been amended, less the amount necessary to pay prior outstanding~~
39 ~~indebtedness, and less the amount of the project area's property~~
40 ~~tax revenue that school entities are entitled to receive pursuant to~~

Chapter 3 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code if the plan had not been amended. Additionally, revenues collected under this paragraph are subject to the payments to affected taxing entities pursuant to Section 33607.

(e) The activities conducted with revenues received under this paragraph shall be consistent with the policies and objectives of the community's housing element, as reviewed and approved by the department, and shall address the unmet housing needs of very low, low- and moderate-income households. The activities shall also be consistent with the community's most recently approved consolidated and annual action plans submitted to the United States Department of Housing and Urban Development, and if the director deems it necessary, the annual action plans shall be submitted to the department on an annual basis. No less than 50 percent of the revenues received shall be devoted to assisting in the development of housing that is affordable to very low income households.

(d) The agency shall not incur any indebtedness pursuant to this paragraph until the director certifies, after consulting with the agency, the net difference between the number of housing units affordable to persons and families of low and moderate income that the agency destroyed or removed prior to January 1, 1976, and the number of housing units affordable to persons and families of low and moderate income that the agency rehabilitated, developed, or constructed, or caused to be rehabilitated, developed, or constructed within the project areas adopted prior to January 1, 1976.

(e) The agency shall not incur any indebtedness pursuant to this paragraph unless the director of the department certifies annually, prior to the creation of indebtedness, all of the following:

(1) The community has a current housing element that substantially complies with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(2) The community's housing element indicates an unmet need for Low and Moderate Income Housing Fund activities.

(3) The agency's most recent independent financial audit report prepared pursuant to Section 33080.1 reports acceptable findings and no major violations of this part.

- 1 ~~(4) The agency has complied with subdivision (a) of Section~~
2 ~~33334.2.~~
3 ~~(5) The agency has met the requirements of this part with~~
4 ~~respect to the provision of dwelling units for persons and families~~
5 ~~of low or moderate income, including, but not limited to, the~~
6 ~~requirements of Section 33413.~~